

# **BOARD OF ZONING APPEALS**

## **MINUTES**

**6:30 PM**

**April 25, 2016**

**City Council Chambers**

**MEMBERS PRESENT:** Bill Burton, George Papandreas, Linda Herbst, and Colin Wattleworth

**MEMBERS ABSENT:** Jim Shaffer

**STAFF:** John Whitmore, AICP

**I. CALL TO ORDER AND ROLL CALL:** Burton called the meeting to order at 6:30 p.m. and read the standard explanation of the how the Board conducts business and rules for public comments.

**II. ELECTIONS OF LEADERSHIP** (Leanne Cardoso resignation):

Herbst moved to nominate Papandreas as Vice-Chair of the Board of Zoning Appeals; seconded by Wattleworth. Motion carried unanimously.

**III. MATTERS OF BUSINESS:**

**A.** Minutes for the January 20, 2016 hearing: Papandreas moved to approve as presented; seconded by Herbst. Motion carried unanimously with Wattleworth abstaining due to absence.

**B.** Minutes for the March 16, 2016 hearing: Papandreas moved to approve as presented; seconded by Herbst. Motion carried unanimously with Wattleworth abstaining due to absence.

**IV. UNFINISHED BUSINESS:** None.

**V. NEW BUSINESS:**

**A. V16-09 / Strader / 633 Madison Avenue:** On March 16, 2016, the Board of Zoning Appeals granted a fifteen (15) foot rear setback variance from Article 1335.04 as requested. The petitioner now seeks to relocate the entrance of the driveway, which will not alter the location, dimensions, or size of the proposed addition but will alter the circumstances for which findings of fact were determined and variance relief granted requiring review and approval by the Board of Zoning Appeals. The realty is located at 633 Madigan Avenue; Tax Map 40, Parcels 318 and 318.2; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report.

Burton recognized Steve Strader of 633 Madison Avenue who stated that after erecting the building they realized they could not see outside and for security purposes they would like permission to move the drive way back to its initial place.

Burton asked if the old driveway would remain in place. Strader stated the old driveway has been taken out and the new driveway would be a little wider than a double car garage. Strader also noted he would create a sidewalk.

Wattleworth asked for further explanation of the project as he was not at the last hearing. Strader explained the project and the location of the new driveway.

Burton explained that a vote would be needed to reconsider the previous approvals on the Findings of Facts prior to approving the amended petition.

Papandreas made a motion to reconsider the Findings of Fact from the previous decision for Case No. V16-09; seconded by Herbst. Motion carried unanimously.

Papandreas made a motion to reconsider the variance granted at the March 16, 2016 meeting for Case No V16-09; seconded by Herbst. Motion carried unanimously.

Papandreas made a motion to find in the affirmative for all of the Findings of Facts V16-09 as recommended by Staff; seconded by Herbst. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The garage addition does not change traffic turning area in the vicinity. The addition and driveway will not block the neighbors' driveways. The Addition will have 20' x 20' parking, plus off-street parking. Addition is on level ground, so line of sight is not impaired by the construction of this addition. The home's siding and windows will be upgraded creating a better visual appearance to properties near us, increasing property values.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The narrow portion of the parcel is along Mildred Street, which would normally serve as the property's frontage in determining building envelope orientation under current Planning and Zoning Code provision. However, the house was constructed several decades ago facing Madison Avenue resulting in a building envelope orientation that generates a rear setback encroachment by the proposed addition. Specifically, if the house was constructed orienting toward Mildred Street, the proposed five-foot setback of the addition would be in compliance with the minimum side setback standard in the R-1A District.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The proposed addition appears to resemble similar attached garage development patterns within the immediate neighborhood and single-family neighborhoods in the City. The addition will not decrease property values and will not impact the views of near-by properties.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Off-Street parking in the R-1A zoning district is at a premium. Newly created off-street parking will enable better use of the property in keeping with the R-1A zoning district.

Papandreas moved to approve V16-09 as requested; seconded by Herbst. Motion carried unanimously.

Burton reminded Mr. Strader that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

**B. V16-12 / Fresenius Medical Care / 5000 Greenbag Road:** Request by Rudy Hoffert of City Neon, Inc., on behalf of Fresenius Medical Care, for variance relief from Article 1369 concerning signage at 5000 Greenbag Road; Tax Map 48A, Parcel 02; B-5, General Business District.

Burton recognized Rudy Hoffert of 1095 Chaplin Hill Road who stated Fresenius Medical Care has occupied a vacant space in the Mountaineer Mall. There is a large wall space and the business would like a sign with a similar size and fashion as the surrounding businesses.

Burton asked for further explanation on the location of the business. Hoffert stated the business would occupy the former General Glass location.

Papandreas asked if the artwork submitted with the application is to scale of what it will look like. Hoffer confirmed and stated the drawing is as close to scale as possible.

Burton asked if the bottom part of the sign was a logo only. Hoffert confirmed and referred to the drawing to further explain the sign.

There being no additional comments or questions by the Board, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being no further comments, Burton declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-12 as presented; seconded by Herbst. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Other business establishments in the area and Morgantown have existing signs that are similar in size and style, which provides the type of visibility to the public for which the petitioner seeks to emulate and enjoy. The size of the proposed sign appears to be comparable in size to other businesses in the area which do not appear to adversely impact public health, safety or welfare or property rights within the immediate area.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The petitioner's storefront is part of a shopping complex with multiple visible sides which appears to place the visible signage space at a commercial messaging and customer wayfinding disadvantage given the fact that maximum sign standards are based on storefront width rather than the architectural context of the building as a whole, the conditions of which were not created by the petitioner.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The sign appears to be relatively consistent with other businesses at the shopping complex and in the area and other shopping locations throughout Morgantown.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The signs should help to promote business for the tenant and the community within the context and wall sign development pattern within the subject area.

Papandreas moved to approve V16-12 as requested; seconded by Herbst. Motion carried unanimously.

Burton reminded Mr. Hoffert that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

## **VI. ANNOUNCEMENTS:**

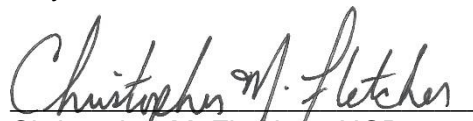
It was noted that issues related to sequencing of the case number in the Staff Report for the V16-12 / Fresenius Medical Care / 5000 Greenbag Road provided in the meeting packet would be corrected in the meeting's minutes.

## **VII. ADJOURNMENT: 6:50 PM**

MINUTES APPROVED:

May 18, 2016

BOARD SECRETARY:

  
Christopher M. Fletcher, AICP